

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building
Fourth floor
Des Moines, Iowa 50319**

CONTERRA L BATIE	:	
	:	HEARING NUMBER: 21B-UI-04384
Claimant	:	
	:	
and	:	EMPLOYMENT APPEAL BOARD
	:	DECISION
PRK WILLIAMS INC	:	
	:	
Employer	:	

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT IS FILED WITHIN 30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A, 96.5-1

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Employer appealed this case to the Employment Appeal Board. The members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds it cannot affirm the administrative law judge's decision. The Employment Appeal Board **REVERSES** as set forth below.

FINDINGS OF FACT:

The Claimant, Conterra Batie, worked for PRK Williams from December 4, 2019 through October 20, 2020 as a full-time human services supervisor. The Employer provides housing and services to people living with intellectual and developmental disabilities. At the start of her employment, the Claimant received training on the Employer's policies and procedures for which she signed in acknowledgement of receipt. Ms. Batie's responsibilities included overseeing one of the houses where the Employer's clients lived and received services. Her position also required her to write case notes for each client for whom she provided services within a specific timeframe. The case notes were necessary for the Employer to track the clients' progress and so that the Employer could receive payment for the services it provided to the clients. It usually took approximately 15 minutes to write up a client's goals. The Claimant sometimes neglected to write case notes on clients.

On February 4, 2020, the Claimant received a verbal warning for 24 incidents of not writing case notes during the month of January. The Claimant went approximately three and half months without receiving any other warnings for write-up incidents until May 15, 2020. Her first written warning occurred on June 25 for not writing 7 case notes during the month of May 2020. When questioned about these incidents, the Claimant was unable to explain why she didn't write the case notes. The Employer was concerned because she routinely averaged 25 hours of overtime each week.

Ms. Batie received a final warning on July 13 for not writing 10 case notes during June and July. The Employer placed the Claimant on a 30-day performance improvement plan (PIP) to try to correct the issue, but she continued to miss writing up case notes.

The Claimant was on medical leave from September 22 through October 19, 2020 in which she returned on October 20. While she was away, the Employer discovered the Claimant missed 32 case notes for the month of September. The Employer terminated Ms. Batie for her continued failure to write up all case notes on clients.

REASONING AND CONCLUSIONS OF LAW:

Iowa Code Section 96.5(2)(a) (2019) provides:

Discharge for Misconduct. If the department finds the individual has been discharged for misconduct in connection with the individual's employment:

The individual shall be disqualified for benefits until the individual has worked in and been paid wages for the insured work equal to ten times the individual's weekly benefit amount, provided the individual is otherwise eligible.

The Division of Job Service defines misconduct at 871 IAC 24.32(1)(a):

Misconduct is defined as a deliberate act or omission by a worker which constitutes a material breach of the duties and obligations arising out of such worker's contract of employment. Misconduct as the term is used in the disqualification provision as being limited to conduct evincing such willful or wanton disregard of an employer's interest as is found in deliberate violation or disregard of standards of behavior which the employer has the right to expect of employees, or in the carelessness or negligence of such degree of recurrence as to manifest equal culpability, wrongful intent or evil design, or to show an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer. On the other hand mere inefficiency, unsatisfactory conduct, failure in good performance as the result of inability or incapacity, inadvertencies or ordinary negligence in isolated instances, or good faith errors in judgment or discretion are not to be deemed misconduct within the meaning of the statute.

The Iowa Supreme court has accepted this definition as reflecting the intent of the legislature. Lee v. Employment Appeal Board, 616 N.W.2d 661, 665, (Iowa 2000) (quoting Reigelsberger v. Employment Appeal Board, 500 N.W.2d 64, 66 (Iowa 1993).

The employer has the burden to prove the claimant was discharged for work-connected misconduct as defined by the unemployment insurance law. Cosper v. Iowa Department of Job Service, 321 N.W.2d 6 (Iowa 1982). The propriety of a discharge is not at issue in an unemployment insurance case. An employer may be justified in discharging an employee, but the employee's conduct may not amount to misconduct precluding the payment of unemployment compensation. The law limits disqualifying misconduct to substantial and willful wrongdoing or repeated carelessness or negligence that equals willful misconduct in culpability. Lee v. Employment Appeal Board, 616 NW2d 661 (Iowa 2000).

The record establishes the Claimant is a human services supervisor who is held to a higher standard of conduct given her job responsibilities to clients and subordinates as well. There is nothing in the record to show she lacked knowledge and understanding of what was expected of her based on her signature on the Employer's policies and procedures. (Exhibits 8-13) Her failure to write case notes on all clients after repeated warnings demonstrates a "... carelessness or negligence of such degree of recurrence as to manifest equal culpability...or show[s] an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employer..." See, 871 IAC 24.32(1)(a), supra. The Employer provided unrefuted testimony that the Claimant offered no explanation for why she neglected to write up all case notes, notwithstanding she spent hours working overtime. The fact Ms. Batie had no warnings issued for several months, corroborates she was capable of completing her case notes to the Employer's satisfaction. Her continued failure to complete case notes on all clients could result in harm to clients whose case notes were missing, as well as result in financial harm to the Employer. Based on this record, we conclude the Employer satisfied its burden of proof.

DECISION:

The administrative law judge's decision dated April 2, 2021 is **REVERSED**. The Employment Appeal Board concludes that the Claimant was discharged for disqualifying misconduct. Accordingly, she is denied benefits until such time she has worked in and has been paid wages for insured work equal to ten times her weekly benefit amount, provided she is otherwise eligible. See, Iowa Code section 96.5(2)"a".

James M. Strohman

Ashley R. Koopmans